

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

No. 06-13514

Plaintiff,

District Judge Julian Abele Cook

v.

Magistrate Judge R. Steven Whalen

THOMAS BATTLE,

Defendant.

ORDER

Before the Court is Plaintiff's petition to allow records subpoena [Docket #19], in which the United States requests the Court "to allow a record subpoena to New Century Mortgage in an effort to obtain a copy of Defendant's loan application."

Plaintiff's Petition must be denied for two reasons. First, subpoenas directed to non-parties are governed by Fed.R.Civ.P. 45. Rule 45(c) provides a mechanism for non-parties to object to such discovery requests, and to file motions to quash subpoenas. To grant the Plaintiff's petition *ex parte* would be to foreclose non-party New Century Mortgage's rights under Rule 45.

Secondly, the undersigned has filed a Report and Recommendation that the default judgment in this case be set aside, and that the writs of garnishment be vacated. If the District Judge accepts the Report and Recommendation, then Plaintiff's Petition—essentially framed in a post-judgment context—lacks relevance. At best, it is premature.

Accordingly, the Petition to Allow Records Subpoena [Docket #19] is DENIED.

SO ORDERED.

S/R. Steven Whalen

R. STEVEN WHALEN

UNITED STATES MAGISTRATE JUDGE

Dated: July 6, 2007

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on July 6, 2007.

S/Gina Wilson

Judicial Assistant